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MICHAEL RODAK, JR., CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-914

GEORGE WALLACE, SR., et al.,

Petitioners,

v.

J. P. HOUSE, et al.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

REPLY BRIEF IN SUPPORT OF CERTIORARI

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The decision of the court of appeals should be vacated and the case remanded for reconsideration in the light of *East Carroll Parish v. Marshall*, 44 U.S.L.W. 4320 (1976). The Fifth Circuit in this case directed that a member of the city council be elected at-large solely because that is the plan preferred by the defendant council members. Petition, 62a-67a. In *Marshall* the use of at-large districts was also preferred by the defendants, but this Court held that such a preference did not constitute one of the "unusual circumstances" required to justify a court-ordered at-large plan. 44 U.S.L.W. at 4321.¹ In the absence of such circum-

¹ In *Marshall* several council men were to be elected at large, here only one would be so chosen. But many of the practical weaknesses of at-large elections exist even when only a single representative is so chosen, including unresponsiveness to the "residents of particular areas within the district" and "their tendency to submerge minorities." *Chapman v. Meier*, 420 U.S. 1, 16 (1975).

stances a federal court fashioning reapportionment plans must use single member districts. *Chapman v. Mercer*, 420 U.S. 1, 17-19 (1975); *Mahan v. Howell*, 410 U.S. 315, 333 (1973); *Connor v. Williams*, 404 U.S. 549, 551 (1972).

The Fourth Circuit has correctly held that section 14(e) of the Voting Rights Act, 42 U.S.C. § 1973 (e), must be applied to election law cases arising before but still pending on August 6, 1975, when that provision was adopted. *Lytle v. Commissioners of Election of Union County*, — F.2d — (4th Cir., February 10, 1976). On remand the Fifth Circuit should be directed to reconsider its denial of counsel fees in light of section 14(e) and *Bradley v. Richmond School Board*, 416 U.S. 696 (1974).

Respectfully submitted,

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